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The vague reference in C 5/L 20-24 of Donahue, "controls, not shown, for operating the valves and switches either upon demand, in accordance with a schedule, or, for example, when certain measured parameters reach preselected values" relates to periodically regenerating the cell C 5/L 4, even during operation (C 3/L 46-+). It also does not suggest alternatively connecting and disconnecting the auxiliary load" "repetitively during at least one of said transitions, in response to electrical output of said fuel cell stack" (Claims 1 and 2), and "operable during periods of times exclusive of start up and shut down in response to a temperature resulting from heat dissipated by said auxiliary load in said element." as called for in claim 15. Claims 3-11 depend from claim 2 and are patentable for the same reasons.

Claims 1 and 15 require "an auxiliary load, disposed to dissipate heat in an element of said fuel cell power plant" which is not mentioned in the rejection nor shown in Reiser or Donahue. Claim 17 refers to that element.

The auxiliary load in Donahue does not dissipate heat in an element of the plant. The element 120 in Donahue is the cathode exhaust; there is no way that the auxiliary load 131 will dissipate heat into the cathode exhaust. There is no hint in either reference that the auxiliary load dissipates heat in an element which conducts oxidant toward the fuel cell stack, as called for in claim 17. Claim 17 also depends from claim 15 and is patentable for the same reasons.

In addition, in Donahue's Fig. 3, the regeneration mode with switch 138B closed, is only as a function of time as illustrated in C 8/L 57, 59, 61 and 67; C 9/L 14-16, 21. Similarly, in the embodiment of Fig. 4, closure of the switch 138C is for a set period of time as illustrated in C 9/L 49, 64, 67 and in C 10/L 41, 42, 49, 51, 67. Thus, there is not even a hint of any of the details in claims 3 through 11, recitation of which is not necessary here. Thus, there is no suggestion in either reference of the specific subject matter of claims 3-11.

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Therefore, reconsideration and allowance of claims 1-11, 15 and 17 over Reiser '599 in view of Donahue is hereby requested, not only because Reiser is disqualified as prior art, but because the actual claimed subject matter is not disclosed or suggested in either reference.

4. Claims 9, 10 and 12-14 are rejected as obvious over Reiser in view of Donahue in further view of the specification herein. Reiser is disqualified under 35 U.S.C. 103(c) as described hereinbefore.

Claims 9, 10 and 12-14 depend from claim 2 and are patentable for the reasons set forth in paragraph 2,3 hereinbefore. Additionally, MPEP 2143.01 states "Although a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.' " The notion that the applicants' invention is enabled by the availability of known switches is equivalent to alleging that those switches should be used in the invention of claim 2 as further specified in claims 9 and 13 is without any legal basis. Furthermore, having different limits for start up and shut down of a fuel cell system is not suggested anywhere in the references, but only in this application. Therefore, reconsideration and allowance of claims 9, 10 and 12-14 over the references and this application is hereby requested.

5. Claim 16 is rejected as unpatentable over Reiser in view of Donahue in further of Reiser et al '481. At the time the invention herein was made, both the inventors of Reiser '481 and the inventors of this application were under an obligation to assign their inventions to the same company, UTC Fuel Cells, LLC, South Windsor, CT. Therefore, both Reiser references are disqualified as references against this application.

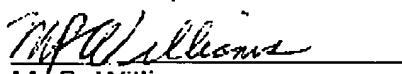
Claims 16 depends from claim 15 and is patentable for the reasons set forth with respect to claim 15 in paragraph 2, 3, hereinbefore. Therefore, reconsideration and allowance of claim 16 over all three references is hereby requested.

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6. Claims 18 and 19 are rejected as obvious over Reiser in view of Donahue in further view of Grasso et al (Grasso). Reiser is unavailable as a reference as described hereinbefore. Claims 18 and 19 depend from claim 15 and are patentable for the reasons set forth in paragraph 2,3 hereinbefore. Furthermore, there is no suggestion in Grasso that the graphite plates or other enthalpy recovery components could be used for an auxiliary load. (See the quote to MPEP 2143.01 hereinbefore.) Therefore, reconsideration of claims 18 and 19 over the references is hereby requested.

Should the foregoing not be persuasive in any respect, a telephone interview is earnestly solicited.

Respectfully submitted,



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